



STATUTORY INSTRUMENTS.

S.I. No. 702 of 2021



EUROPEAN UNION (CROWDFUNDING) REGULATIONS 2021

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I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Regulation (EU) 2020/1503 of the European Parliament and Council of 7 October 2020¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Crowdfunding) Regulations 2021.

Interpretation

2. (1) In these Regulations—

“Act of 1942” means the Central Bank Act 1942 (No. 22 of 1942);

“Bank” means the Central Bank of Ireland;

“contravention” includes, in relation to any provision, a failure to comply with that provision, and also includes—

- (a) attempting to commit a contravention,
- (b) aiding, abetting, counselling or procuring a person to commit a contravention,
- (c) inducing, or attempting to induce, a person (whether by threats or promises or otherwise) to commit a contravention,
- (d) being (directly or indirectly) knowingly concerned in, or a party to, a contravention, and
- (e) conspiring with others to commit a contravention;

“enactment” has the same meaning as it has in the Interpretation Act 2005 (No. 23 of 2005);

“Crowdfunding Regulation” means Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020².

(2) A word or expression which is used in these Regulations and is also used in the Crowdfunding Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Crowdfunding Regulation.

¹ OJ No. L. 347, 20.10.2020. p.1.

² OJ No. L. 347, 20.10.2020. p.1.

Designation of Bank as competent authority

3. The Bank is designated as the competent authority in the State responsible for carrying out the functions of a competent authority referred to in the Crowdfunding Regulation.

Powers of Bank

4. (1) The Bank shall have the powers specified in points (a) to (c) of Article 30(1) and points (a) to (i) of Article 30(2) of the Crowdfunding Regulation.

(2) The Bank shall not exercise the powers referred to in paragraph (1) in a manner or for a purpose inconsistent with the Bank's obligations pursuant to the Crowdfunding Regulation or these Regulations.

(3) The powers of the Bank referred to in paragraph (1) are without prejudice to the powers of the Bank under any other provision of these Regulations, the Crowdfunding Regulation or any other enactment.

Responsibility attaching to key investment information sheet

5. (1) The provisions of this Regulation shall govern responsibility in respect of the contents of a key investment information sheet.

(2) For the purposes of these Regulations and the Crowdfunding Regulation and subject to paragraph (3), responsibility for the information given in a key investment information sheet, attaches to the following (in this Regulation referred to as the "responsible persons"):

- (a) the project owner;
- (b) where the project owner is a body corporate, each person who is a director of that body corporate when the key investment information sheet is published.

(3) The responsible persons shall be clearly identified in a key investment information sheet—

- (a) in the case of a natural person, by their name and functions, and
- (b) in the case of a legal person, by their name and registered office.

(4) A key investment information sheet shall contain declarations by the responsible persons that, to the best of their knowledge—

- (a) the information contained in the key investment information sheet is in accordance with the facts, and
- (b) the key investment information sheet makes no omission likely to affect its import.

(5) The declarations referred to in paragraph (4) shall not be required to be signed but shall be deemed to have been made on publication of the key investment information sheet.

(6) This Regulation does not prejudice Regulation 6.

Civil liability for information given in key investment information sheet

6. (1) The persons specified in paragraph (2) shall be liable to pay compensation to an investor in respect of a crowdfunding project to which a key investment information sheet (or any translation thereof) relates for losses or damages sustained by the investor by reason of—

- (a) the information given in the key investment information sheet (or any translation thereof) being misleading or inaccurate, or
- (b) the key investment information sheet (or any translation thereof) omitting key information needed to aid investors when considering whether to finance the crowdfunding project.

(2) The persons referred to in paragraph (1) are—

- (a) the project owner, and
- (b) where the project owner is a body corporate, each person who is a director of that body corporate when the key investment information sheet is published.

Responsibility attaching to key investment information sheet at platform level

7. (1) The provisions of this Regulation shall govern responsibility in respect of the contents of a key investment information sheet at platform level.

(2) For the purposes of these Regulations and the Crowdfunding Regulation and subject to paragraph (3), responsibility for the information given in a key investment information sheet at platform level, attaches to the crowdfunding service provider.

(3) The crowdfunding service provider shall be clearly identified, by its name and registered office, in a key investment information sheet at platform level.

(4) A key investment information sheet at platform level shall contain declarations by the crowdfunding service provider that, to the best of its knowledge—

- (a) the information contained in the key investment information sheet at platform level is in accordance with the facts, and
- (b) the key investment information sheet at platform level makes no omission likely to affect its import.

(5) The declarations referred to in paragraph (4) shall not be required to be signed but shall be deemed to have been made on publication of the key investment information sheet at platform level.

(6) This Regulation does not prejudice Regulation 8.

Civil liability for information given in key investment information sheet at platform level

8. The crowdfunding service provider shall be liable to pay compensation to an investor in respect of a crowdfunding project to which a key investment

information sheet at platform level (or any translation thereof) relates for losses or damages sustained by the investor by reason of—

- (a) the information given in the key investment information sheet at platform level (or any translation thereof) being misleading or inaccurate, or
- (b) the key investment information sheet at platform level (or any translation thereof) omitting key information needed to aid investors when considering whether to invest through individual portfolio management of loans.

Administrative penalties and other administrative measures

9. (1) Where the provisions of the Act of 1942 are invoked in relation to a contravention of these Regulations or the Crowdfunding Regulation, any of the sanctions referred to in Article 39(2) of that Regulation may be imposed by the Bank—

- (a) following an inquiry under section 33AO of the Act of 1942, or
- (b) in accordance with section 33AR or section 33AV of the Act of 1942.

(2) The power of the Bank to impose any of the sanctions referred to in Article 39(2) of the Crowdfunding Regulation is in addition to and not in substitution for its power to impose any of the sanctions specified in section 33AQ of the Act of 1942.

(3) For the purposes of a contravention of these Regulations or the Crowdfunding Regulation, any reference in the Act of 1942 to the sanctions set out in section 33AQ of that Act is to be read as including a reference to the sanctions referred to in Article 39(2) of the Crowdfunding Regulation.

Right of appeal

10. (1) A decision of the Bank under the Crowdfunding Regulation shall be properly reasoned.

(2) A decision of the Bank under the Crowdfunding Regulation is an appealable decision for the purpose of Part VIIA of the Act of 1942.

(3) A failure to make a decision in respect of an application for an authorisation under the Crowdfunding Regulation within 6 months after the submission of the application in a case where the application contains all the information required under the Crowdfunding Regulation is an appealable decision for the purpose of Part VIIA of the Act of 1942.

Amendment of Act of 1942

11. The Act of 1942 is amended—

- (a) in section 2(2A)—

- (i) in paragraph (be), by the substitution of “2019;” for “2019.”, and
- (ii) by the insertion of the following paragraph after paragraph (be):
- “(bf) Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020³.”,
- (b) in section 33AK(10), in the definition of “supervisory EU legal acts”—
- (i) in paragraph (ak), by the substitution of “2019;” for “2019.”, and
- (ii) by the insertion of the following paragraph after paragraph (ak):
- “(al) Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020⁴.”,
- (c) in section 33BC—
- (i) by renumbering the second subsection (16) as subsection (17), and
- (ii) by the insertion of the following subsection after subsection (17) (as renumbered by subparagraph (i)):
- “(18) This section does not apply where Regulation 42 of Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020⁵ applies.”,
- and
- (d) in Part 2 of Schedule 2, by the insertion of the following item:

“

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Amendment of Companies Act 2014

12. The Companies Act 2014 (No. 38 of 2014) is amended, in section 1348(1), by the substitution of the following definition for the definition of “Prospectus Regulation”:

“ ‘Prospectus Regulation’ means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017⁶ on the prospectus to be published

³ OJ No. L. 347, 20.10.2020, p. 1.

⁴ OJ No. L. 347, 20.10.2020, p. 1.

⁵ OJ No. L. 347, 20.10.2020, p. 1.

⁶ OJ No. L. 168, 30.6.2017, p. 12.

when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended by—

- (a) Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019⁷ amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets,
- (b) Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020⁸ on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, and
- (c) Regulation (EU) 2021/337 of the European Parliament and of the Council of 16 February 2021⁹ amending Regulation (EU) 2017/1129 as regards the EU Recovery prospectus and targeted adjustments for financial intermediaries and Directive 2004/109/EC as regards the use of the single electronic reporting format for annual financial reports, to support the recovery from the COVID-19 crisis;”.

Amendment of Central Bank (Investment Market Conduct) Rules 2019

13. The Central Bank (Investment Market Conduct) Rules 2019 (S.I. No. 366 of 2019) are amended, in Regulation 2(1), by the substitution of the following definition for the definition of “Prospectus Regulation”:

“ ‘Prospectus Regulation’ means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017¹⁰ on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended by—

- (a) Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019¹¹ amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets,
- (b) Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020¹² on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, and
- (c) Regulation (EU) 2021/337 of the European Parliament and of the Council of 16 February 2021¹³ amending Regulation (EU) 2017/1129 as regards the EU Recovery prospectus and targeted

⁷ OJ No. L. 320, 11.12.2019, p. 1.

⁸ OJ No. L. 347, 20.10.2020, p.1.

⁹ OJ No. L. 68, 26.2.2021, p. 1.

¹⁰ OJ No. L. 168, 30.6.2017, p. 12.

¹¹ OJ No. L. 320, 11.12.2019, p. 1.

¹² OJ No. L. 347, 20.10.2020, p.1.

¹³ OJ No. L. 68, 26.2.2021, p. 1.

adjustments for financial intermediaries and Directive 2004/109/EC as regards the use of the single electronic reporting format for annual financial reports, to support the recovery from the COVID-19 crisis;”.

Amendment of European Union (Prospectus) Regulations 2019

14. The European Union (Prospectus) Regulations 2019 (S.I. No. 380 of 2019) are amended, in Regulation 2(1), by the substitution of the following definition for the definition of “Prospectus Regulation”:

“ ‘Prospectus Regulation’ means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017¹⁴ on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended by—

- (a) Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019¹⁵ amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets,
- (b) Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020¹⁶ on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, and
- (c) Regulation (EU) 2021/337 of the European Parliament and of the Council of 16 February 2021¹⁷ amending Regulation (EU) 2017/1129 as regards the EU Recovery prospectus and targeted adjustments for financial intermediaries and Directive 2004/109/EC as regards the use of the single electronic reporting format for annual financial reports, to support the recovery from the COVID-19 crisis;”.

Amendment of Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylenders) Regulations 2020

15. The Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylenders) Regulations 2020 (S.I. No. 196 of 2020) are amended, in Regulation 2(1), by the substitution of the following definition for the definition of “Prospectus Regulation”:

“ ‘Prospectus Regulation’ means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017¹⁸ on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended by—

¹⁴ OJ No. L. 168, 30.6.2017, p. 12.

¹⁵ OJ No. L. 320, 11.12.2019, p. 1.

¹⁶ OJ No. L. 347, 20.10.2020, p.1.

¹⁷ OJ No. L. 68, 26.2.2021, p. 1.

¹⁸ OJ No. L. 168, 30.6.2017, p. 12.

- (a) Regulation (EU) 2019/2115 of the European Parliament and of the Council of 27 November 2019¹⁹ amending Directive 2014/65/EU and Regulations (EU) No 596/2014 and (EU) 2017/1129 as regards the promotion of the use of SME growth markets,
- (b) Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020²⁰ on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, and
- (c) Regulation (EU) 2021/337 of the European Parliament and of the Council of 16 February 2021²¹ amending Regulation (EU) 2017/1129 as regards the EU Recovery prospectus and targeted adjustments for financial intermediaries and Directive 2004/109/EC as regards the use of the single electronic reporting format for annual financial reports, to support the recovery from the COVID-19 crisis;”.



GIVEN under my Official Seal,
13 December, 2021.

PASCHAL DONOHOE,
Minister for Finance.

¹⁹ OJ No. L. 320, 11.12.2019, p. 1.

²⁰ OJ No. L. 347, 20.10.2020, p.1.

²¹ OJ No. L. 68, 26.2.2021, p. 1.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give effect to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 (the “Crowdfunding Regulation”).

The Crowdfunding Regulation lays down uniform requirements for the provision of crowdfunding services, for the organisation, authorisation and supervision of crowdfunding service providers, for the operation of crowdfunding platforms as well as for transparency and marketing communications in relation to the provision of crowdfunding services in the European Union.

Under these Regulations the Central Bank of Ireland is the designated competent authority for carrying out the functions and duties provided for in the Crowdfunding Regulation. As crowdfunding service providers are regulated financial service providers under the Central Bank Act 1942, individual consumer complaints can be made to the Financial Services and Pensions Ombudsman.

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